

# BUDGET LETTER

NUMBER:	04-28
DATE ISSUED:	August 31, 2004
SUPERSEDES:	BL 03-19

SUBJECT:	JUNE 30, 2004 VACANT POSITION REESTABLISHMENTS
REFERENCES:	GOVERNMENT CODE SECTION 12439, CONTROL SECTION 4.11, BUDGET ACT OF 2004

TO: Agency Secretaries  
Department Directors  
Departmental Budget Officers  
Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

**Budget Officers are requested to forward a copy of this budget letter (BL) to departmental Human Resources and Labor Relations Offices.**

This BL addresses the reestablishment of positions abolished pursuant to Government Code (GC) Section 12439. The statute provides two categories for reestablishment of positions. The first category is for positions that meet the self-certification criteria under GC Section 12439(c). These positions should have been submitted to the State Controller's Office by August 16, 2004. The second category is for positions that may be reestablished upon the approval of the Director of Finance pursuant to GC Section 12439(b):

- (b) The Director of Finance may authorize the reestablishment of any positions abolished pursuant to this section if one or more of the following conditions existed during part or all of the six consecutive monthly pay periods:
- (1) There was a hiring freeze in effect during part or all of the six consecutive pay periods.
  - (2) The department has diligently attempted to fill the position, but was unable to complete all the steps necessary to fill the position within six months.
  - (3) The position has been designated as a management position for purposes of collective bargaining and has been held vacant pending the appointment of the director, or other chief executive officer, of the department as part of the transition from one Governor to the succeeding Governor.
  - (4) The classification of the position is determined to be hard-to-fill.
  - (5) Late enactment of the budget caused the department to delay filling the position.

Agencies, departments, and other State entities should immediately begin to identify which of the abolished positions meet at least one of these GC Section 12439(b) criteria for consideration of reestablishment. Departments should not assume that a position will be reestablished simply because it meets one of the above criteria. Every department's request will be considered in light of all the factors that affect its budget.

Agencies, departments, and other State entities requesting a vacant position reestablishment pursuant to GC Section 12439(b) must submit a completed Request for GC Section 12439 Abolished Position Reestablishment form (DF-155, attached) to their Finance Budget Analysts by September 10, 2004, in both hard copy and electronic form. This request must contain all supporting documentation, including a completed Change in Established Positions form (STD. 607). (Please note that these 607s should have an X before the 607 number.) Departments reporting to a Cabinet Secretary should ensure that the Cabinet Secretary has a copy of the request at the time of submission to Finance. An electronic version of the DF-155 is available with this BL on the Finance website, under Information for Governmental Agencies, BLs at: <http://www.dof.ca.gov/html/budlettr/budlets.htm>. The electronic submission of forms

(i.e., e-mail) must be submitted with a signed hardcopy. All requests must be complete. Please note that positions abolished under GC Section 12439 are not included in the Schedule 8 (State Controller's Report of Authorized Positions) and must be added back into the Salaries and Wages (Schedule 7A) when approved by Finance.

Section 4.11 provides that each new position authorized in the 2004-05 Budget Act will be established effective July 1, 2004, unless otherwise approved by Finance. This section has been added to the budget so departments do not inadvertently circumvent GC Section 12439 by delaying formal establishment of new positions.

### **Form DF-155 Instructions**

Departments may submit one DF-155 for multiple position reestablishments if the positions all qualify for reestablishment pursuant to the same criterion and have the same general justification for reestablishment.

**Request Date and Request Number:** Include date of submittal and request number (e.g., 0001, 0002).

**Attachments:** For each DF-155 indicate whether attachments are included and enter the total number of pages, including the DF-155.

**Section A:** Indicate which criterion qualifies the position for reestablishment. Mark all that apply.

**Section B:** Provide a justification for a June 30, 2004 Vacant Position Reestablishment.

**Section C:** Describe the specific consequences that will occur if the reestablishment is not granted.

**Section D:** Indicate the position number, classification title, and salary range for the applicable position for which the June 30, 2004 Vacant Position Reestablishment is requested. For requests addressing more than one position, departments must attach supporting schedules to reflect the required information for each position.

**Contact Person:** Provide the name and telephone number of the person who can respond to questions.

**Section E:** Departments reporting to Agency Secretaries must include the approval (signature) of both the department director and the Agency Secretary (or authorized designees), if possible. If the Agency Secretary's signature cannot be obtained by September 10, 2004, the Agency Secretary should notify Finance of any concerns by September 10, 2004. Departments and other State entities not represented by a Cabinet level officer must include the approval of the department director or other authorized designee.

**Approval:** Upon submittal of the DF-155 to your Finance Budget Analyst, Finance will review the request and notify agencies, departments, and other State entities, as appropriate, of the approval or denial of the request.

If you have any questions regarding this BL, please contact your Finance Budget Analyst.

/s/ Stephen W. Kessler

STEPHEN W. KESSLER  
Deputy Director

Attachment